

# Customs Bulletin

Regulations, Rulings, Decisions, and Notices  
concerning Customs and related matters



## and Decisions

of the United States Court of Customs and  
Patent Appeals and the United States  
Customs Court

Vol. 12

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APRIL 5, 1978

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No. 14

*This issue contains*

T.D. 78-95 and 78-96

Proposed Rulemaking

C.D. 4737

Protest abstracts P78/26 through P78/32

Reap. abstracts R78/81 through R78/89

International Trade Commission Notices

DEPARTMENT OF THE TREASURY  
U.S. Customs Service

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# U.S. Customs Service

## *Treasury Decisions*

(T.D. 78-95)

### *Antidumping—Customs Regulations amended*

Section 153.31, Customs Regulations, relating to disclosure conferences in antidumping proceedings, amended

DEPARTMENT OF THE TREASURY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS,  
Washington, D.C.

### TITLE 19—CUSTOMS DUTIES

#### CHAPTER I—UNITED STATES CUSTOMS SERVICE

##### PART 153 — ANTIDUMPING

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide that a disclosure conference will be held by the Customs Service, at the request of any interested person, after the publication of a tentative determination in a proceeding under the Antidumping Act, 1921, as amended. In the absence of a tentative determination, the conference will be held, at the request of any interested person, before the final determination is published. At the conference, interested persons may obtain disclosure of the bases for the tentative or final determination.

EFFECTIVE DATE: April 24, 1978.

#### FOR FURTHER INFORMATION CONTACT:

Theodore Hume, Office of the General Counsel, Treasury Department, 1500 Pennsylvania Avenue NW., Washington, D.C. 20220 (202-566-2941).

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## SUPPLEMENTARY INFORMATION:

## BACKGROUND

On January 6, 1978, notice was published in the *FEDERAL REGISTER* (43 FR 1099) of a proposal to amend Part 153 of the Customs Regulations (19 CFR Part 153) by adding a new section 153.31(d) to set forth procedures to be followed by the Customs Service at informal disclosure conferences in advising interested persons of the bases for tentative, and in some cases final, determinations in antidumping proceedings. These conferences are a means for providing information to interested persons concerning the bases for the Treasury Department's determinations. In the case of a withholding of appraisement or other tentative determination, the disclosure conference will be held after the publication of the tentative determination. If no tentative determination is made, the disclosure conference will be held before publication of the final determination.

Written comments on the proposed amendment to be received on or before February 6, 1978, were invited from interested persons. As explained below, the comments have not resulted in any changes to the proposal.

## DISCUSSION OF COMMENTS

All commenters supported the adoption of regulations specifically providing for informal disclosure conferences in antidumping proceedings. However, some commenters objected to the proposal that the disclosure conferences be held *after* publication in the *FEDERAL REGISTER* of a "Withholding of Appraisement Notice" or other notice of tentative disposition of an antidumping investigation. These commenters urged that holding the conference *after* the tentative determination would deny interested persons, particularly importers and foreign exporters and manufacturers, the opportunity, at an early stage in the proceedings, to provide additional information, to present their views, and to minimize or eliminate dumping margins through price adjustments.

Under present procedures, after Customs has initially reviewed the available data for determining foreign market value or constructed value and purchase price or exporter's sales price, as applicable, and has made any tentative adjustments considered appropriate, interested persons may request a disclosure conference to discuss the tentative calculations and adjustments. The calculations and adjustments discussed at the conference, however, are subject to further analysis and review within Customs, and all available information is subject to a complete analysis and review by the Treasury Department *before* a tentative or final determination is published in the proceeding.



Because of the complex issues of fact and law involved in antidumping proceedings, the Treasury Department has concluded that meaningful disclosure of the bases for a tentative determination is possible only *after* the analysis and review process is completed. Ample time is provided thereafter for the presentation of information and views. The regulations provide that interested persons may submit information and views *at any time* during the course of an antidumping proceeding (19 CFR 153.31), provided that such submissions are received within the time limits established. These provisions are in addition to the provisions for a hearing to be held after the publication of a notice of withholding of appraisalment or other tentative determination (19 CFR 153.40). In addition, any price changes made by foreign manufacturers or exporters to minimize or eliminate dumping margins before the publication of the tentative determination must be regarded as speculative to the extent that the price changes are based on assumptions as to what the final calculations and adjustments will be.

For these reasons, and after consideration of all the comments received and further review of this matter, it has been determined to adopt the amendment as proposed.

#### DRAFTING INFORMATION

The principal author of this document was Edward T. Rosse, Regulations and Legal Publications Division, U.S. Customs Service. However, other personnel in the Customs Service and the Treasury Department assisted in its development.

#### AMENDMENT TO THE REGULATIONS

Part 153 of the Customs Regulations (19 CFR Part 153) is amended as set forth below.

(ADM-9-03)

R. E. CHASEN,  
*Commissioner of Customs.*

Approved March 14, 1978

ROBERT H. MUNDHEIM,  
*General Counsel of the Treasury.*

[Published in the FEDERAL REGISTER March 23, 1978 (43 FR 11982)]

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#### PART 153 - ANTIDUMPING

Section 153.31 is amended by adding a new paragraph (d) to read as follows:





### § 153.31 Full-scale investigation.

\* \* \* \* \*

(d) *Disclosure Conference.* After the publication in the FEDERAL REGISTER of a "Withholding of Appraisalment Notice," or any other notice of tentative disposition of an antidumping investigation, the Commissioner of Customs shall conduct, at the request of any interested person, a disclosure conference during which the Customs Service will disclose to such interested person the bases for the tentative disposition of an antidumping investigation. Where it appears to the Secretary that an affirmative determination pursuant to § 153.36 is required, and no request has been made for a withholding of appraisalment under § 153.35(b), persons known to be interested in the proceeding will be so informed in sufficient time so they may request a disclosure prior to the hearing which may be requested pursuant to § 153.40. Confidential information will be treated consistently with the procedures set forth in § 153.22. Nothing in this subsection will affect access to information which is otherwise available pursuant to § 153.21.

(Secs. 201-212, 407, 42 Stat. 11 *et seq.*, as amended, sec. 5, 72 Stat. 585, secs. 406, 407, 42 Stat. 18; 5 U.S.C. 301, 19 U.S.C. 160-173)

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(T.D. 78-96)

#### *Customs Service decision*

DEPARTMENT OF THE TREASURY,  
OFFICE OF THE COMMISSIONER OF CUSTOMS,  
*Washington, D.C. 21 Mar. 1978.*

The following is the substance of a recent decision made by the United States Customs Service where the issue involved is of sufficient general interest or importance to warrant publication in the CUSTOMS BULLETIN.

LEONARD LEHMAN,  
*Assistant Commissioner,  
Regulations and Rulings.*

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#### *Treatment of import fees as "duties"; drawback*

The Customs Service has been asked to rule whether the import fees on sugar, sirup, and molasses imposed by Presidential Proclamation 4538, dated November 11, 1977, and issued pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624),

are subject to drawback under the provisions of section 313 of the Tariff Act of 1930, as amended (19 U.S.C. 1313). The fees in question have been incorporated into the Tariff Schedules of the United States (TSUS) as items 956.10, 956.20, 957.10, and 957.20.

Section 528 of the Tariff Act of 1930, as amended (19 U.S.C. 1528), provides that no tax or other charge assessed against an article shall be considered a Customs duty unless the law imposing the tax or charge provides that it shall be treated as a Customs duty. Headnote 1 to Part 3 of Schedule 9, TSUS, and section 22(c) of the Agricultural Adjustment Act provide that the import fees proclaimed by the President pursuant to section 22 of that Act are considered to be Customs duties.

*Decided*, the import fees imposed on sugar, sirup, and molasses by Presidential Proclamation 4538 are subject to drawback upon compliance with the provisions of 19 U.S.C. 1313 and Part 22 of the Customs Regulations.

J. P. TEBEAU,

*Director,*

*Carriers, Drawback & Bonds Division.*

# U.S. Customs Service

## *Proposed Rulemaking*

The following notice of proposed rulemaking was recently published in the *FEDERAL REGISTER*. The Customs Service welcomes comments from the public in regard to the proposal. The comments must be in writing, addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, 1301 Constitution Avenue NW., Washington, D.C. 20229, and must be received on or before the date specified in the notice.

ROBERT E. CHASEN,  
*Commissioner of Customs.*

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(19 CFR Part 101)

### *Notice of Proposed Change in the Field Organization of the Customs Service*

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: The document proposes to change the field organization of the Customs Service by extending the port limits of the Customs port of entry at El Paso, Texas. The proposed change is part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

DATES: Comments must be received on or before: April 4, 1978.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:**

Robert Schenarts, Inspection and Control Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-8151).

**SUPPLEMENTARY INFORMATION:****BACKGROUND**

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, the Customs Service proposes to extend the port limits of the Customs port of entry at El Paso, Texas. The current limits of this port coincide with the El Paso city limits. The expansion would accommodate the relocation of the cattle quarantine station in Chihuahua, Mexico, by creating a "cattle only" crossing immediately across the United States-Mexico border from the intended site, in the area known as Anapra, New Mexico. This would make the entry of cattle easier as it would not be necessary to transport them through the city of Juarez, Mexico, to get to the port of entry.

As extended, the geographical limits of the port of El Paso, Texas, would include all the territory within the city limits of El Paso and also:

That part of Dona Ana County, New Mexico, contained in the area defined by the Texas-New Mexico state line from the point of its intersection with the USA-Mexico international boundary northwesterly to the point of its intersection with New Mexico State Highway 273; then southwesterly along New Mexico State Highway 273 to its intersection with Anapra Road; and continuing in a southwesterly direction along Anapra Road to its intersection with the USA-Mexico international boundary; and then easterly along the USA-Mexico international boundary back to its intersection with the Texas-New Mexico state line.

If the proposed extension is adopted, the list of Customs regions, districts and ports of entry in section 101.3 of the Customs Regulations (19 CFR 101.3), will be amended accordingly.

**COMMENTS**

Before adopting this proposal, consideration will be given to any written comments that are submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.8(b) of the Customs Regulations (19 CFR

103.8(b)) during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

## AUTHORITY

This change is proposed under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949-1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 14 (42 FR 35239).

## DRAFTING INFORMATION

The principal author of this document was Robert Harris, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development, both on matters of substance and style.

Dated March 6, 1978:

BETTE B. ANDERSON,  
*Under Secretary of the Treasury.*

[Published in the FEDERAL REGISTER March 20, 1978 (43 FR 11587)]

# Decisions of the United States Customs Court

United States Customs Court

One Federal Plaza  
New York, N.Y. 10007

*Chief Judge*

Edward D. Re

*Judges*

Paul P. Rao  
Morgan Ford  
Scovel Richardson  
Frederick Landis

James L. Watson  
Herbert N. Maletz  
Bernard Newman  
Nils A. Boe

*Senior Judge*

Samuel M. Rosenstein

*Clerk*

Joseph E. Lombardi

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## *Customs Decisions*

(C.D. 4737)

A. JOHNSON & CO., INC. v. UNITED STATES

*Iron fragments*

Court Nos. 70/19276, etc.

Ports of New York, Baltimore, San Francisco and Portland, Oreg.

[Judgment for plaintiff.]

(Decided on remand [C.A.D. 1196] March 10, 1978)

*Busby Rivkin Sherman Levy and Rehm* (Joseph S. Kaplan of counsel) for the plaintiff.

*Barbara Allen Babcock*, Assistant Attorney General (Andrew P. Vance, Chief, Customs Section, and Joseph I. Liebman, trial attorney), for the defendant.

RICHARDSON, Judge: The merchandise in this case, described as Mairon Electrolytic Iron Cathode Plate or Mairon Electrolytic Iron Flake, was heretofore the subject of decision after trial in C.D. 4650 wherein this court held the merchandise to be classifiable as claimed under TSUS item 415.50 as modified by T.D. 68-9 as chemical elements in any physical form at the duty rate of 7 or 8 *per centum ad valorem*, depending upon date of entry, and not, as returned in the liquidation, under TSUS item 657.20 as modified by T.D. 68-9 as articles of iron not coated or plated with precious metal at the duty rate of 13 or 15 *per centum ad valorem*, depending upon date of entry. An alternative claim for classification of the merchandise under TSUS item 799.00 as modified by T.D. 68-9 as any article not provided for elsewhere in the schedules at the duty rate of 7 or 8 *per centum ad valorem*, depending upon date of entry, was not reached by the court in view of its disposition of the primary claim.

On appeal the Court of Customs and Patent Appeals reversed this court's determination with respect to the primary claim in C.A.D. 1196, holding that the merchandise was excluded from classification under Schedule 4 of the TSUS per force of Headnote 1(iii) of that schedule, and remanded the case to this court for a determination of the merits of any unadjudicated claimed classification.

Inasmuch as the appellate remand was for *determination* of the unadjudicated claim rather than for *further proceedings* in the case this court is disposing of the alternative claim on the basis of the existing record which the court regards as being sufficient for such purposes, as did apparently the Court of Customs and Patent Appeals.

The court is not disposed toward entering a judgment on the existing record "in favor of the defendant" as sought by the defendant, among other things, in its communication to the court and the opposing party by letter dated December 28, 1977. While it is true as defendant states that the appellate court ruled that the original classification under item 657.20 remained presumptively correct in the light of that court's holding, this presumption must, in the court's opinion, be measured against the unadjudicated claim under item 799.00. The appellate court did not order that the original classification "should be reinstated" as defendant states. On the contrary, the appellate court remanded the case to this court for additional adjudication with respect to any "unadjudicated claimed classification".

In C.D. 4650 this court rejected classification of the imported merchandise under item 657.20 because the imported iron fragments are not *articles of iron* as they of necessity would have to be in order to be classifiable in Part 3 of Schedule 6 of the TSUS. The court

found the merchandise to be iron in a primary form although not provided for in that particular form in Part 2 of Schedule 6 of the TSUS. In this court's view neither of these findings was disturbed by the holding of our appellate court in C.A.D. 1196. In this connection our appellate court simply said:

Assuming, arguendo, that the Customs Court was correct in finding that Mairon is not an "article of iron," as that term is used in Schedule 6, Part 3, and that iron in flake form does not fall within any of the statutory descriptions in Schedule 6, Part 2, we are of the opinion that the Customs Court erred in its application of Headnote 1(iii).

And Headnote 1(iii) only deals with exclusions from classification under Schedule 4 of the TSUS—the chemicals schedule.

The court continues to believe in the soundness of its previous findings in C.D. 4650 concerning the primary nature of the imported iron fragments. Moreover, if Congress had intended to deal specifically with electrolytic iron in the TSUS there is persuasive evidence in the legislative history of the TSUS of Congress' awareness (1) of the commercial existence of electrolytic iron, and (2) of the treatment of that material as a primary form of metal under a tariff classification system said to have been relied upon by the framers of the TSUS in the "arrangement of the proposed revised schedules".\* See *Explanatory Notes to the Brussels Nomenclature* (1955), page 662, where, under the heading 73.06 dealing, among other things, with blocks, lumps and similar forms of iron or steel, it is stated, "This includes electrolytic iron produced in any form and broken into pieces and imported as such"; and compare this with the definition of "unwrought" contained in Headnote 3(a) of Part 2 of Schedule 6 of the TSUS wherein that term is defined as "the term 'unwrought' refers to metal, whether or not refined, in the form of . . . blocks, lumps . . . and similar primary forms . . .".

Thus, since the iron fragments at bar are unquestionably a primary form of iron which does not respond to the tariff concept of *articles of iron*, and cannot, under the law of this case, be classified under the chemicals schedule, it follows that this merchandise is classifiable as alternatively claimed by the plaintiff under the residual provision in item 799.00 for articles not provided for elsewhere in these schedules, and the court so holds.

Judgment will be entered herein accordingly.

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\**Tariff Classification Study* (1960), *Submitting Report*, page 8.



# Decisions of the United States Customs Court

## *Abstracts* *Abstracted Protest Decisions*

DEPARTMENT OF THE TREASURY, March 13, 1978.

The following abstracts of decisions of the United States Customs Court at New York are published for the information and guidance of officers of the customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to customs officials in easily locating cases and tracing important facts.

ROBERT E. CHASEN,  
*Commissioner of Customs.*

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED		HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Far. or Item No. and Rate	Far. or Item No. and Rate			
P78/26	Watson, J. March 6, 1978	Compass Instrument & Optical Co., Inc., et al.	77-2-00261, etc.	Item 380.60 29¢ per lb. + 15%	Item 735.20 10%	The Newman Importing Co., Inc. v. U.S. (C.D. 4648)	New York Backpacking tents	
P78/27	Ford, J. March 7, 1978	Norman Jensen, Inc.	75-10-02698	Item 692.35 5.5% Item 694.05 5%	Item 692.30 Free of duty	Judgment on the pleadings	Noyes (Pembina) "Tree Farmer Diesels"; "Dozer Weldments" (tractors for agricultural use and parts)	

## CUSTOMS COURT

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED		HELD		BASIS	PORT OF ENTRY AND MERCHANDISE
				Per. or Item No. and Rate	Item	Per. or Item No. and Rate	Item		
P78/28	Richardson, J. March 10, 1978	Bruest Industries, Inc., a Delaware corporation	75-6-01482	Item 658.05 20%	Item 432.00 5%			Agreed statement of facts	Kansas City (St. Louis) Chemical compound mixture of platinum salts and asbestos
P78/29	Watson, J. March 10, 1978	Hub Floral Corp.	74-3-00793	Item 748.21 42.5%	Item 642.97 13.5% or 8.5%			Hub Floral Corporation v. U.S. (C.D. 4660)	Boston Wire covered with textile material; chenille stems
P78/30	Watson, J. March 10, 1978	Hub Floral Corp.	76-1-00215	Item 748.21 42.5%	Item 642.97 11%			Hub Floral Corporation v. U.S. (C.D. 4660)	Boston Wire covered with textile material; chenille stems
P78/31	Watson, J. March 10, 1978	Hub Floral Corp.	76-2-00442	Item 748-21 42.5%	Item 642.97 8.5%			Hub Floral Corporation v. U.S. (C.D. 4660)	Boston Wire covered with textile material; chenille stems
P78/32	Watson, J. March 10, 1978	Hub Floral Corp.	76-5-01216	Item 748.21 42.5%	Item 642.97 8.5%			Hub Floral Corporation v. U.S. (C.D. 4660)	Boston Wire covered with textile material; chenille stems

# Decisions of the United States Customs Court

## Abstracts *Abstracted Reappraisal Decisions*

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R78/81	Watson, J. March 6, 1978	Ciba Chemical and Dye Company	R66/19742, et c.	United States value	U.S. selling prices, less 1% cash discount as determined by cus- toms officer at time of appraisement; less 23.5% representing profit and general ex- penses usually made in U.S. on sales of dye-stuffs of same class or kind; less costs of transportation and in- surance from place of shipment to place of delivery in amounts determined by cus- toms officer at time of appraisement; di- vided by 1.40 or such other factor applied by customs officer, to allow for customs du- ties payable on im- ported dye-stuffs	U.S. v. Geigy Chemical Corporation et al. (C.A.D. 1153)	New York Benzenoid dye-stuffs

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	UNIT OF VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R78/82	Watson, J. March 6, 1978	Ciba Chemical and Dye Company	R67/622, etc.	United States value	U.S. selling prices, less 1% cash discount as determined by customs officer at time of appraisement; less 23.5% representing profit and general expenses usually made in U.S. on sales of dyestuffs of same class or kind; less costs of transportation and insurance from place of shipment to place of delivery in amounts determined by customs officer at time of appraisement; divided by 1.40 or such other factor applied by customs officer, to allow for customs duties payable on imported dyestuffs	U.S. v. Geigy Chemical Corporation et al. (C.A.D. 1155)	New York Benzenoid dyestuffs
R78/83	Watson, J. March 6, 1978	Geigy Chemical Corporation	R66/6322, etc.	United States value	U.S. selling prices, less 1% cash discount as determined by customs officer at time of appraisement; less 23.5% representing profit and general expenses usually made in U.S. on sales of dyestuffs of same class or kind; less costs of	U.S. v. Geigy Chemical Corporation et al. (C.A.D. 1155)	New York Benzenoid dyestuffs

R78/84	Ford, J. March 7, 1978	Lasco Rubber Com- pany	R62/12021	American selling price	transportation and in- surance from place of shipment to place of delivery in amounts determined by cus- toms officer at time of appraisement; di- vided by 1.40 or such other factor applied by customs officer, to allow for customs du- ties payable on im- ported dyestuffs	Agreed statement of facts	New York Footwear
R78/85	Landis, J. March 7, 1978	Strombecker Corp.	R68/7665, etc.	Constructed value	Ex-factory invoice unit price, net, packed, plus appraised value of tooling charges	Strombecker Corp. v. U.S. (C.D. 4653)	Chicago Electrical equipment, games, road race sets, gloves, models, toys and parts of all the foregoing
R78/86	Ford, J. March 8, 1978	Durham Industries, Inc.	76-2-00336	Export value	Appraised value less 13%	Agreed statement of facts	Houston Toys
R78/87	Ford, J. March 8, 1978	Durham Industries, Inc.	76-2-00093	Export value	Appraised value less 13%	Agreed statement of facts	Oakland (San Fran- cisco) Toys
R78/88	Ford, J. March 8, 1978	Durham Industries, Inc.	77-6-00095	Export value	Appraised value less 13%	Agreed statement of facts	Norfolk Toys
R78/89	Landis, J. March 8, 1978	Durham Industries, Inc.	76-5-01054	Export value	Appraised value less 13%	Agreed statement of facts	Portland, Oreg. Toys

# International Trade Commission Notice

*Investigations by the United States International Trade Commission*

DEPARTMENT OF THE TREASURY, March 23, 1978.

The appended notices relating to investigations by the United States International Trade Commission are published for the information of Customs Officers and others concerned.

R. E. CHASEN,  
*Commissioner of Customs.*

In the Matter of  
CERTAIN SYNTHETIC GEMSTONES } Investigation No. 337-TA-50

## *Notice of Investigation*

Notice is hereby given that a complaint was filed with the United States International Trade Commission on February 9, 1978, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of Queensbury Opal Co. Ltd., Three Commerce Park Square, Beachwood, Ohio 44122. The complaint alleges that unfair methods of competition and unfair acts exist in the importation of certain synthetic gemstones into the United States, or in their sale, by reason of the alleged coverage of such articles by the claims of the U.S. Letters Patent No. 3,742,731, which patent is owned by Queensbury Opal Co. Ltd. The complaint alleges that such unfair methods of competition and unfair acts have the effect or tendency to destroy or substantially injure an industry, efficiently and economically operated, in the United States or to prevent the establishment of a domestic industry. The complaint further alleges that certain misrepresentations take place in the sale of infringing gemstones. Complainant has requested that the imports in question be temporarily and permanently excluded from entry into the United States.

Having considered the complaint, the United States International Trade Commission, on March 10, 1978, ORDERED—

(1) That, pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine, under subsection (c) whether, on the basis of the allegations set forth in the complaint and the evidence adduced, there are violations or there is reason to believe there are violations of subsection (a) of this section in the unauthorized importation of certain synthetic gemstones into the United States, or in their sale, by reason of the alleged coverage of such gemstones by the claims of U.S. Letters Patent No. 3,742,731, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States or to prevent the establishment of such an industry in the United States.

(2) That, for the purpose of the investigation so instituted, the following persons alleged to be involved in the unauthorized importation of such articles into the United States, or in their sale, are hereby named as the respondents upon which the complaint and this notice are to be served:

Paul S. Rogell  
P.O. Box 1321  
Stamford, Connecticut 06904  
Rogell Associates, Inc.  
P.O. Box 1321  
Stamford, Connecticut 06904  
Incom Corporation  
205 Chapin Street  
Southbridge, Massachusetts  
Fritz Mohr  
Breiten Weg No. 6  
Idar-Oberstein 3  
West Germany  
Rudolph & Helmut Mei  
Tiefensteiner Strass 29  
Idar-Oberstein 2  
West Germany

(3) That, for the purpose of the investigation so instituted, Donald K. Duvall, Administrative Law Judge, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby appointed as presiding officer, and

(4) That, for the purpose of the investigation so instituted, Charles F. Schill, United States International Trade Commission, 701 E

Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's *Rules of Practice and Procedure* (19 C.F.R. 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the Rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extension of time for submitting a response will not be granted unless good and sufficient cause therefore is shown.

Failure of the respondents to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute waiver of the right to appear and contest the allegations of the complaint and of this notice, and will authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination, respectively, containing such findings.

The complaint, with the exception of confidential information referred to therein, is available for inspection by interested persons at the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the New York City Office of the Commission, 6 World Trade Center.

By order of the Commission.

KENNETH R. MASON,  
*Secretary.*

Issued: March 14, 1978

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#### BICYCLE TIRES AND TUBES

[TA-201-33]

#### *Notice of Investigation and Hearing*

*Investigation instituted.* Following receipt of a petition on March 2, 1978, filed on behalf of Carlisle Tire and Rubber Co., Division of Carlisle Corp., Carlisle, Pa., the United States International Trade Commission on March 16, 1978, instituted an investigation under section 201(b) of the Trade Act of 1974 to determine whether pneumatic bicycle tires, provided for in item 772.48 of the Tariff Schedules of the United States (TSUS), or tubes for bicycle tires, provided for in TSUS item 772.57, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury,



or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

*Public hearing ordered.* A public hearing in connection with this investigation will be held in Washington, D.C., at 9:30 a.m., E.D.T., on Tuesday, June 6, 1978, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street NW. Requests for appearances at the hearing should be received in writing by the Secretary of the Commission at his office in Washington not later than noon, Wednesday, May 31, 1978.

There will be a prehearing conference in connection with this investigation which will be held in Washington, D.C., at 9:30 a.m., E.D.T., on Wednesday, May 31, 1978, in Room 117, U.S. International Trade Commission Building, 701 E Street NW.

*Inspection of petition.* The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission, and at the New York City Office of the U.S. International Trade Commission, located at 6 World Trade Center.

By order of the Commission.

KENNETH R. MASON,  
*Secretary.*

Issued: March 17, 1978

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In the Matter of	}	Investigation No. 337-TA-45
CERTAIN COMBINATION LOCKS		

*Notice of Continuance of Preliminary Conference*

Notice is hereby given that the Preliminary Conference in this matter previously scheduled for March 14, 1978 is continued until March 30, 1978 at 10 a.m., in the ALJ Hearing Room, Room 610, Bicentennial Building, 600 E Street NW., Washington, D.C. Notice of this Preliminary Conference was first made in the Notice of consolidated Preliminary conference issued March 3, 1978 and published in the *FEDERAL REGISTER* at 43 FR 9541. The purpose of this preliminary conference is to establish a discovery schedule, to discuss the procedures to be followed in pursuing such discovery, to set the dates for the Prehearing Conference and Temporary Relief Hearing, and to resolve any other matters necessary to the conduct of this investigation.

If any questions should arise not covered by these instructions, the parties or their counsel shall call the chambers of the undersigned Presiding Officer.

The Secretary shall serve a copy of this Notice upon parties of record and shall publish this Notice in the **FEDERAL REGISTER**.

JUDGE DONALD K. DUVALL,  
*Presiding Officer.*

Issued March 17, 1978

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[TA-201-32]

*Notice of Investigation and Hearings*

*Investigation instituted.* Following receipt of a petition on February 23, 1978, filed on behalf of The Anaconda Co., ASARCO, Inc., Cities Service Co. (Minerals Group), Copper Range Co., Cyprus Mines Corp., Duval Corp., Hecla Mining Co., Inspiration Consolidated Copper Co., Kennecott Copper Corp., Magma Copper Co., Phelps Dodge Corp., and Ranchers Exploration and Development Corp., the U.S. International Trade Commission on March 17, 1978, instituted an investigation under section 201(b) of the Trade Act of 1974 to determine whether unwrought copper, other than alloyed, provided for in item 612.06 of the Tariff Schedules of the United States, is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

*Public hearing ordered.* A public hearing in connection with this investigation will be held in Tucson, Ariz., beginning on Monday, May 22, 1978. The time and place of the hearing will be announced later. Requests for appearances at the hearing should be received in writing by the Secretary of the Commission at his office in Washington, D.C., not later than noon, Monday, May 15, 1978.

A prehearing conference in connection with this investigation will be held in Washington, D.C., at 9:30 a.m., E.D.T., on May 15, 1978, in Room 117, U.S. International Trade Commission Building, 701 E Street NW.

*Inspection of petition.* The petition filed in this matter is available for public inspection at the Office of the Secretary, U.S. International Trade Commission and at the New York City office of the U.S. International Trade Commission located at 6 World Trade Center.

By order of the Commission:

KENNETH R. MASON,  
*Secretary.*

Issued: March 20, 1978

In the Matter of } Investigation 337-TA-3  
DOXYCYCLINE }

*Notice of Preliminary Conference*

Notice is hereby given that a Preliminary Conference will be held in connection with the above styled investigation at 10:00 a.m. on Thursday, April 6, 1978 in Room 610 Bicentennial Building, 600 E Street NW., Washington, D.C. Notice of this investigation was published in the FEDERAL REGISTER on February 21, 1978 (43 FR 7273). The purposes of this preliminary conference are to hear oral arguments on any pending motions, to define the issues, to establish a discovery schedule, and to resolve any other matters necessary to the conduct of this investigation.

If any questions should arise not covered by these instructions, the parties or their counsel shall call the chambers of the undersigned Presiding Officer.

The Secretary shall serve a copy of this Notice upon all parties of record and shall publish it in the FEDERAL REGISTER.

JUDGE DONALD K. DUVALL,  
*Presiding Officer.*

Issued March 17, 1978

# Index

## U.S. Customs Service

	T.D. No.
Treasury Decisions:	
Antidumping; disclosure conferences in antidumping proceedings; sec. 153.31, C.R., amended .....	78-95
Treatment of import fees as "duties"; drawback .....	78-96
Proposed Rulemaking:	
Change in the field organization of the Customs Service; extend port limits of El Paso, Texas; 19 CFR Part 101; p. 9.	

## Customs Court

Articles:	
Not provided for elsewhere in schedules; iron fragments, C.D. 4737	
Of iron, C.D. 4737	
Chemical elements in any physical form, C.D. 4737	
Construction; Tariff Schedules of the United States:	
Item 415.50, C.D. 4737	
Item 657.20, C.D. 4737	
Item 799.00, C.D. 4737	
Schedule 4, headnote 1 (iii), C.D. 4737	
Schedule 6, part 2, headnote 3(a), C.D. 4737	
Definition; unwrought, C.D. 4737	
Iron fragments; articles not provided for elsewhere in schedules, C.D. 4737	
Legislative history:	
Explanatory Notes to the Brussels Nomenclature, 1955, vol. II, p. 662, C.D. 4737	
Tariff Classification Study, 1960, Submitting Report, p. 8, C.D. 4737	
Words and phrases; unwrought, C.D. 4737	







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